

# Request for Continued Examination (RCE) Transmittal

Docket Number

85492-102

Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## Application Information

First Named Inventor	Tim Wiens
Application No.	10589135
Filing Date	June 23, 2008
Examiner	Saeeda Monee Latham
Art Unit	1782

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.** Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

### 1. Submission required under 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- ii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- iii. ☐ Information Disclosure Statement
- ii. ☒ Affidavit(s)/Declaration
- iv. ☐ Other \_\_\_\_\_

### 2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other \_\_\_\_\_

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## Fee Calculation

### Request for Continued Examination Fee

☒ Applicant Claims Small Entity Status *See 37 CFR 1.27*

TOTAL

\$405

## Method of Payment

☒ Deposit Account ☐ Credit Card ☐ Check ☐ Money Order ☐ Other: \_\_\_\_\_

Deposit Account Number \_\_\_\_\_

**For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)**

- ☐ Charge the fee(s) set forth above
- ☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17
- ☐ Charge fee(s) indicated above, **except for the filing fee**
- ☐ Credit any overpayments

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on form PTO-2038.**

Amount Grand Total

\$405

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## Instruction Sheet for RCEs

(not to be submitted to the USPTO)

### NOTES:

An RCE is not a new application, and filing an RCE will not result in an application being accorded a new filing date.

#### **Filing Qualifications:**

The application must be a utility or plant application filed on or after June 8, 1995. The application cannot be a provisional application, a utility or plant application filed before June 8, 1995, a design application, or a patent under reexamination. See 37 CFR 1.114(e).

#### **Filing Requirements:**

***Prosecution in the application must be closed.*** Prosecution is closed if the application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application (e.g., an Office action under *Ex parte Quayle*). See 37 CFR 1.114(b).

***A submission and a fee are required at the time the RCE is filed.*** If reply to an Office action under 35 U.S.C. 132 is outstanding (e.g., the application is under final rejection), the submission must meet the reply requirements of 37 CFR 1.111. If there is no outstanding Office action, the submission can be an information disclosure statement, an amendment, new arguments, or new evidence. See 37 CFR 1.114(c). The submission may be a previously filed amendment (e.g., an amendment after final rejection).

### WARNINGS:

#### **Request for Suspension of Action:**

All RCE filing requirements must be met before suspension of action is granted. A request for a suspension of action under 37 CFR 1.103(c) does not satisfy the submission requirement and does not permit the filing of the required submission to be suspended.

#### **Improper RCE will NOT toll Any Time Period:**

***Before Appeal*** - If the RCE is improper (e.g., prosecution in the application is not closed or the submission or fee has not been filed) and the application is not under appeal, the time period set forth in the last Office action will continue to run and the application will be abandoned after the statutory time period has expired if a reply to the Office action is not timely filed. No additional time will be given to correct the improper RCE.

***Under Appeal*** - If the RCE is improper (e.g., the submission or the fee has not been filed) and the application is under appeal, the improper RCE is effective to withdraw the appeal. Withdrawal of the appeal results in the allowance or abandonment of the application depending on the status of the claims. If there are no allowed claims, the application is abandoned. If there is at least one allowed claim, the application will be passed to issue on the allowed claim(s). See MPEP 1215.01.

**See MPEP 706.07(h) for further information on the RCE practice.**

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## Correspondence Address

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## Certificate of Mailing by Express Mail

I hereby certify that this Request for Continued Examination, accompanying documents, and fee are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on the date indicated below:

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## Certificate of Transmission

I hereby certify that this Request for Continued Examination, accompanying documents, and fee authorization are being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

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## Signature Instructions


Select the name of the person who will electronically sign the Request for Continued Examination from the drop-down box below.

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**Verify that the signatory information is correct and press the 'eSign' button to electronically sign the submission. If you prefer to sign the form manually, simply do not click the 'eSign' button; just print and manually sign.**

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Michael R. Williams

Name	/Michael R.Williams/	Registration Number	45333
Signatory Capacity	Attorney for Applicant(s)	E-mail Address	uspto@adeco.com
	//Michael R.Williams//	Date Signed	12/30/2010